

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

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U.S. CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

JESUS HERNANDEZ-HERNANDEZ,
Petitioner,

v.

UNITED STATES OF AMERICA,
Defendant.

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CIVIL NO. 97-2315 (PG)

O R D E R

Jesús Hernández-Hernández filed this petition under 28 U.S.C. § 2255 claiming his attorney failed to file an appeal when requested to do so.

The U.S. Magistrate Judge issued a report recommending the dismissal of the petition. The Court disagreed and referred the matter for further consideration.

The U.S. Magistrate held an evidentiary hearing on February 12, 16, 17 and 22, 1999. After hearing the testimonies of the former federal public defenders, the assistant U.S. Attorney as well as petitioner's and his wife's testimonies, the Magistrate recommends that petitioner be re-sentenced for the sole purpose of allowing him the right to file a timely notice of appeal. No opposition has been filed by the government.

WHEREFORE, in view of the above, the Court hereby Approves and Adopts the U.S. Magistrate Judge's report and recommendation. The

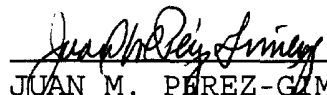
Civil No. 97-2315(PG)

2

Clerk of the Court shall issue the necessary papers to bring Jesús Hernández Hernández to this jurisdiction to be resentenced.

IT IS SO ORDERED.

San Juan, Puerto Rico April 13, 2000.


JUAN M. PÉREZ-GIMÉNEZ
U.S. District Judge